

Regular meeting of the City Council of the City of Austin, Texas.

Austin, Texas May 6th 1909.

Hon A P Wooldridge, Mayor Presiding. Roll called

Present Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart & Powell  
 Councilman Hart stated that he was authorized to withdraw the proposition made to the City by the First Presbyterian Church in regard to the Old City Clock.

County Commissioner J B Fischer appeared before the Council and submitted a proposition from the Commissioners Court of Travis County, in regard to the Old City Clock.

Councilman Hart offered the following Preamble and resolution.

Whereas, the City of Austin is the owner of a City Clock, which, upon investigation, the City Council finds to be in bad condition and requiring the expenditure of a considerable sum of money to place in proper running order.

And Whereas, the Honorable Commissioners Court of Travis County, acting for said County, has made a proposition to the City Council of the City of Austin to install said clock, at the expense of Travis County and without any cost to the City of Austin, in one of the towers of the County Court House of Travis County, after having same thoroughly repaired and put in good running order, and at all times to keep said clock in proper condition and in good running order so that it will show and strike the time correctly in order that the public generally may receive the benefits thereof: And Whereas, because of the considerations above stated, and because of the inability of the City of Austin to at this time utilize said clock, and to bear the expense of having it repaired, it is the opinion of the City Council of the City of Austin that said proposition made by the Commissioners Court of Travis County should be accepted;

Therefore be it resolved by the City Council of the City of Austin that the proposition of the Commissioners Court of Travis County, acting for said County, as the same is above set forth, be and the same is hereby accepted: and that said City clock be and the same is hereby donated to and delivered to said County of Travis to be used and utilized by said County for the purposes and in the manner hereinbefore stated;

And be it further resolved that any failure upon the part of said County of Travis to carry out any part of its said agreement with reference to said clock shall, at the option of the City of Austin, cause the ownership and possession of same to revert to the City of Austin.

The resolution was adopted by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart & Powell 5  
 Nays none.

The following communication from Dr W J Matthews was read, and on motion of Councilman Hart was laid over for future consideration.

City  
 Clock.

Donated to County,  
 Commissioners Court  
 upon Conditions

Austin, Texas, May 6, 1909.

To Honorable James P Hart,

Austin, Texas.

Dear Sir :

I herewith respectfully ask you for a leave of absence from the City from May 10th to May 14th, 1909, in order that I may attend the meeting of the State Medical Association which meets at Galveston on the morning of May 11th. The people of Galveston have recently erected a central City abattoir and I am anxious to inspect its construction and see it in operation. I am also anxious to learn the sanitary methods now adopted and enforced in that City. It is of course important that an Assistant Physician be appointed to fill my place during my absence, I am ambitious to build up the Surgical department of the City Hospital and a good surgical Assistant is at all times an absolute necessity. I would suggest that he be paid \$ 25.00 per month for his services and \$ 10.00 per month for his horse feed. Through careful and economical management of the City Hospital, I will be more than able to pay the City back for this increased expense. I think it would be well to make the appointment at once in order that the Assistant Physician may become familiar with his work before I leave for Galveston.

Respectfully yours.,

W J Matthews.

Councilman Bartholomew moved that he be authorized to purchase 1200 feet of 12 inch pipe, to be used on the Colorado River Bridge to convey water to South Austin, which request was granted by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart & Powell

5

Nays none.

On motion of Councilman Gracy the Council took up for consideration the different bids for the City Treasurership.

Judges Gregory, Von Rosenberg & Mendell were invited to address the Council on the different bids, after which the following opinion by the City Attorney was read.

Austin, Texas, May 5th 1909.

To the City Council of the City of Austin, Austin, Texas.

Gentlemen:

Replying to your inquiry as to whether or not your action in the election of Chester Thrasher as City Treasurer upon a competitive bidding for said office is illegal by virtue of the fact that certain members of your Council are alleged to be interested as stockholders in the Citizens Bank and Trust Company, I have the honor to advise you as follows:

(1) Article VII, Section 16, of the City charter provides that the Office of City Treasurer shall be let by contract to the highest and best bidder in the discretion of the City Council, and in determining the highest and best bidder, the highest rate of interest to be paid upon daily balances and the value of the bond tendered shall be the criterion that shall decide. It is provided further that the Superintendent of Receipts, Disbursements and Accounts shall immediately upon being assigned to such Superintendancy advertise for bids for said Office. It is my understanding that all the formalities required by law were complied with in the advertisement and opening of such bids, and that upon the opening of such bids it was discovered that Chester Thrasher was the highest and best bidder in the purview of the provisions of the charter, said party having agreed to pay the City a higher rate of interest

*Dr. W. J. Matthews  
ask for leave absence*

*Supr  
Bartholomew authorized  
to purchase 1200 feet of 12  
inch pipe*

*City Attorney  
advised City Council  
that election of  
Chester Thrasher  
as City Treasurer  
was illegal*

on daily balances than all other bidders.

Article X I, section 12, of the City charter, provides that neither the Mayor or any other member of the City Council, nor any appointive or elective officer of the City, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid by the City or any of its departments.

The above citations are <sup>the</sup> only provisions in the charter pertinent to this inquiry, and I fail to find any provision in the general laws on the subject. The facts are that Chester Thrasher has contracted with the City to receive and securely keep all monies belonging to the City. In order to qualify for the office of City Treasurer, he must give bond for the safe keeping of said funds. He offers to pay a price for said contract, and by the acceptance of his offer the City will receive a premium for the funds deposited with him.

By reference to paragraph 2 above, it will be seen that the work, business or contract which the charter prohibits the members of the City Council having any interest in is limited to such "work business or contract" the expense, price or consideration of which is paid BY the City. In this instance, it is contemplated that a price shall be paid TO the City. The City Treasurer is responsible to the City for the safe keeping of the City's money, under the protection of a bond, the solvency of which is a criterion in determining his bid, and the City cannot govern his actions in selecting a depository for said money.

The contract of the City is with an individual, and the Citizen's Bank and Trust Company, is in no way privy to the contract. The charter designates the City Treasurer as an Officer and a Banking Corporation cannot become an Officer of the City. If the construction that the contract is void, should Mr Thrasher choose to place the City's funds in the Citizens Bank and Trust Company, because some of the Councilmen happen to be interested in that Bank is tenable, then in that event no Officer of any bank in Austin is eligible for the office; in event the City's funds should be placed in his bank, because the City Treasurer is an Officer of the City; and if this construction be true, the City Treasurer for the past several years has illegally held his office.

The suggestion that the Councilmen interested in said bank would profit by the Bank's use of the City's money, if in fact the money should be deposited in this bank, is ~~too~~ <sup>too</sup> contingent and remote to consider.

It is therefore my opinion that Mr Thrasher is eligible for the Office of City Treasurer, that his contract to receive and securely keep the City's funds will be valid upon his tender of a solvent bond and taking the oath of his office, and that the City Council has in no wise committed an illegal act in this matter.

Respectfully .

J Bouldin Rector,

City Attorney.

Councilman Powell moved that the bid of Grester Thrasher for the Office of City Treasurer be accepted, he being the highest and best bidder, which motion prevailed by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart & Powell 5  
Nays none.

Councilman Bartholomew moved that the Council now proceed to the election of a City Treasurer, which motion prevailed by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart and Powell 5  
Nays none.

Councilman Powell nominated for the Office of City Treasurer Chester Thrasher. There being no other nominations the vote was taken and Mr Thrasher declared elected by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart and Powell 5  
Nays none.

Councilman Bartholomew stated to the Council that it was necessary to put in an additional tunnel at the Pump station of the Water & Light Plant, and that he had made a contract for same, and asked that his action in the matter be confirmed. On motion the action of Councilman Bartholomew was confirmed by the following vote

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart and Powell 5  
Nays none.

Councilman Bartholomew offered the following resolution, which was read and adopted.

Resolved that the bond of the City Treasurer be fixed at \$ 100,000.00. The resolution was adopted by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart and Powell 5  
Nays None.

On motion the City Attorney was directed to prepare and submit a bond for the City Treasurer.

Councilman Powell to whom was referred the different bids for construction of a storm sewer in alley west of Guadalupe street, between 19th and 24th streets, presented a report, showing calculations on the different bids.

Councilman Powell offered the following resolution:

Be it resolved by the City Council of the City of Austin: That all bids on storm Sewer be rejected, and the bids with the certified checks be returned to the bidders. The resolution was adopted by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart and Powell. 5  
Nays None.

By Councilman Powell an ordinance appropriating the sum of \$ 200.00 for the purpose of paying salaries of Assistants to the City Engineer.

The ordinance was read the first time and passed under suspension of the rules by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart and Powell 5  
Nays none.

By Councilman Powell an ordinance appropriating the sum of \$ 2700.00 for the purpose of paving west 6th street. The ordinance was read the first time and passed under suspension of the rules by the following vote:

Yeas Mayor Wooldridge, Councilmen Bartholomew, Gracy, Hart and Powell 5  
Nays None.

*Chester Thrasher  
elected City Treasurer*

*Lt. Bartholomew  
Authorized to put in  
tunnel at Pump  
Station*

*Bond of City Treasurer  
fixed at \$100,000.00*

*Report of Lt. Powell  
on bids for Storm  
Sewer*

*Bids on storm sewer  
rejected*

*Ordinance for City Engineer*

*Ordinance for paving*

Report of Marshal  
April 20<sup>th</sup>

.The Mayor laid before the Council the report of the City Marshal for the month of April 1909, which was on motion referred to the Superintendent of Police, etc, without reading.

On motion the Council took a recess, subject to call of the Mayor

*E. C. Peterson*

City Clerk.